

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Milwaukee Water Works, Milwaukee County, Wisconsin,  
for Authority to Increase Water Rates

3720-WR-107

**PREHEARING CONFERENCE MEMORANDUM**

This memorandum orders the following consistent with the prehearing conference held on March 17, 2010, and pursuant to Wis. Admin. Code § PSC 2.04(1):

1. Except for Commission staff all persons designated in the table below as filers are parties.
2. The issues in this proceeding appear below.
  - a) Should the Commission grant in whole or in part the applicant's request for a water rate increase, and if so, under what terms and conditions?
    - i. What is the applicant's revenue requirement for the 2010 test year?
    - ii. What is the cost of service for water service as it relates to the various customer classes, including public fire protection?
    - iii. What is the appropriate rate design, including tariff provisions, for the various customer classes?
    - iv. Should the Commission grant the applicant's request for an Economic Development Rate, and if so, how should it be designed?

3. The schedule and testimony and exhibit numbering assignment appear below.

|                                     | Filers                                  | Direct                   | Rebuttal                 | Sur-Rebuttal             | Exhibits                                     | Hearing   |                                       | Initial Brief | Reply Brief |
|-------------------------------------|---|--------------------------|--------------------------|--------------------------|--|---|---------------------------------------|---------------|-------------|
|                                     |   |                          |                          |                          |  | Public Session                                      | Party Session                         |               |             |
|                                     | MILWAUKEE WATER WORKS                   | D1.1-D1.x                | R1.1-R1.x                | S1.1-S1.x                | 1.1-1.x                                      |   |                                       |               |             |
|                                     | CITY OF MEQUON and MEQUON WATER UTILITY | D2.1-D2.x                | R2.1-R2.x                | S2.1-S2.x                | 2.1-2.x                                      |   |                                       |               |             |
|                                     | CITY OF NEW BERLIN                      | D3.1-D3.x                | R3.1-R3.x                | S3.1-S3.x                | 3.1-3.x                                      |   |                                       |               |             |
|                                     | CITY OF WAUWATOSA                       | D4.1-D4.x                | R4.1-R4.x                | S4.1-S4.x                | 4.1-4.x                                      |   |                                       |               |             |
|                                     | CITY OF WEST ALLIS                      | D5.1-D5.x                | R5.1-R5.x                | S5.1-S5.x                | 5.1-5.x                                      |   |                                       |               |             |
|                                     | CLEAN WISCONSIN                         | D6.1-D6.x                | R6.1-R6.x                | S6.1-S6.x                | 6.1-6.x                                      |   |                                       |               |             |
|                                     | MENOMONEE FALLS WATER UTILITY           | D7.1-D7.x                | R7.1-R7.x                | S7.1-S7.x                | 7.1-7.x                                      |   |                                       |               |             |
|                                     | VILLAGE OF SHOREWOOD                    | D8.1-D8.x                | R8.1-R8.x                | S8.1-S8.x                | 8.1-8.x                                      |   |                                       |               |             |
|                                     | VILLAGE OF BROWN DEER                   | D9.1-D9.x                | R9.1-R9.x                | S9.1-S9.x                | 9.1-9.x                                      |   |                                       |               |             |
|                                     | VILLAGE OF GREENDALE                    | D10.1-D10.x              | R10.1-R10.x              | S10.1-S10.x              | 10.1-10.x                                    |   |                                       |               |             |
|                                     | VILLAGE OF BUTLER                       | D11.1-D11.x              | R11.1-R11.x              | S11.1-S11.x              | 11.1-11.x                                    |   |                                       |               |             |
|                                     | COMMISSION STAFF                        | D12.1-D12.x              | R12.1-R12.x              | S12.1-S12.x              | 12.1-12.x                                    |   |                                       |               |             |
| <b>Deadlines, dates &amp; times</b> |   | 04/23/2010<br>12:00 p.m. | 05/14/2010<br>12:00 p.m. | 06/03/2010<br>12:00 p.m. | At the same time as corresponding testimony. | 3:00 p.m. &<br>7:00 p.m.<br>06/09/2010<br>Milwaukee | 10:00 a.m.<br>06/09/2010<br>Milwaukee | 12:00 p.m.    | 12:00 p.m.  |

4. Other facilitating matters:

**General**

- a. File by Electronic Regulatory Filing system (ERF) or, if prohibited by size or format, standard optical disc storage media.
- b. Serve each other by email or, if prohibited by size or format, standard optical disc storage media.
- c. Filing constitutes certification of service. *See* Wis. Admin. Code § PSC 2.06(3)(a)2.
- d. File and serve:
  - i. Any response to a request for intervention or a request to waive or modify the application of this order in particular circumstances for good cause, by 12:00 noon 3 days after the filing of the request and any reply by 12:00 noon 2 days after the filing of the response.
  - ii. Any other specified objection, request, response, reply, correction, and affidavit within the timeframe established by this order.

- iii. A redacted public version of every document filed under request for confidential handling. *See* Wis. Admin. Code § 2.12(4).
- e. Serve, but do not file, a copy of party-to-party correspondence on the Commission docket coordinator.
- f. The Office of Administrative Law Judge shall act only on a request officially filed.
- g. The Office of Administrative Law Judge shall issue every written order to parties and Commission staff by email.
- h. In computing any period of time that follows service by a party or Commission staff or that follows an issue of the Office of Administrative Law Judge, the day of emailing is the day from which the designated period of time begins to run. *See* Wis. Admin. Code § PSC 2.05(2).
- i. An order with respect to a request that contains a representation or certification of the consent of the other parties and Commission staff shall await no response.
- j. For any evidence for which there exists a deadline to object or request to offer rebuttal or countervailing evidence, without timely objection or request the Office of the Administrative Law Judge shall receive the evidence into the record with no further order.
- k. The Office of Administrative Law Judge may waive or modify the application of this order in particular circumstances for good cause.

### **Confidentiality**

- l. Wis. Admin. Code § PSC 2.12 already protects from public disclosure any record filed with the Commission under a request for confidential handling that meets the requirements of that section. Such protection renders unnecessary other protective measures available from the Office of Administrative Law Judge to prevent public disclosure of a trade secret, or other confidential research, development, or commercial information filed in this docket unless and until the demonstration of a specific and credible threat of disclosure.
- m. The Commission shall hear *in camera* any oral testimony and cross-examination to which a claim that confidential handling under Wis. Admin. Code § PSC 2.12 should apply and place such testimony in a separate transcript volume. To maintain this claim the claimant shall file a request under Wis. Admin. Code § PSC 2.12(3) along with a redacted copy of the volume consistent with Wis. Admin. Code § PSC 2.12(4) by 12:00 noon 5 days after issuance of the volume by mail from the Office of Administrative Law Judge. The claimant shall omit from the original volume any affirmation of the veracity of that volume from the court reporter. The redacted volume exists only for Commission staff to evaluate the claim and for public convenience. The redacted volume provides no authoritative

record of the proceedings. In the case of any discrepancy between the original volume and the redacted volume the original volume shall control.

- n. The Commission shall afford to any transcript volume receiving confidential handling under Wis. Admin. Code § PSC 2.12 the same handling and retention process and procedure that applies to all other documents which the Commission grants confidential handling.

### **Pre-Hearing**

- o. File responses to Commission staff data requests.
- p. Serve, but do not file, party-to-party discovery request and response to other parties and the Commission staff docket coordinator.
- q. Any party or Commission staff compelling a witness to testify shall take the deposition of that witness.
- r. Except for purposes of impeachment serve, but do not file, any document for which it plans to use only for cross-examination or examination of an adverse witness to other parties and the Commission staff docket coordinator by 12:00 noon 3 days prior to the first day of the party hearing session.
- s. File and serve:
  - i. All pre-filed testimony, exhibits, and briefs within the assigned schedule indicated in the table above.
  - ii. The transcript of the deposition of any witness being compelled to appear and corresponding exhibits, by the date of direct pre-filed testimony.
  - iii. Any request to take official notice under Wis. Stat. § 227.45(4) by the deadline of the second round of pre-filed testimony. File and serve any response by 12:00 noon 3 days after the filing of the request and any reply by 12:00 noon 2 days after filing of the response.
  - iv. Any request to compel a discovery response or request for protective order. File and serve any response by 12:00 noon 3 days after the filing of the request and any reply by 12:00 noon 2 days after filing of the response.
  - v. Every correction to pre-filed testimony and exhibits in the form of an errata sheet or replacement page by 12:00 noon 3 days prior to the first day of the party hearing session. Indicate on the errata the location of each correction by page and line number or exhibit number. Timely corrections require no request or pre-approval from the Office of Administrative Law Judge, but such corrections are subject to objection at hearing.
  - vi. Every objection to:

1. Pre-filed testimony and corresponding exhibits filed in the first two rounds by the deadline of the next round of filing for each respective round. File and serve any response by 12:00 noon 3 days after the filing of the objection and any reply by 12:00 noon 2 days after filing of the response.
  2. Pre-filed testimony and corresponding exhibits filed in the last round of filing and corrections to pre-filed testimony and exhibits by 12:00 noon 1 day prior to the first day of the party hearing session.
- t. Contact the Office of Administrative Law Judge by 12:00 noon 3 days prior to the first day of the party hearing session to:
- i. Request the scheduling of additional hearing time.
  - ii. Request the use of more than two simultaneous telephone lines.
  - iii. Request to take a witness at a specific prearranged time.
  - iv. Indentify any witness planned for cross-examination.
  - v. Indentify any need to conduct a portion of the hearing *in camera*.

### **Filing**

- u. Paginate all testimony and mark each exhibit as assigned in the table above. Center the page number on the bottom of each page of testimony and mark each exhibit in the top right-hand corner of each exhibit.
- v. Use a cover page for any document that when filed the Commission time stamp and PSC reference number will not clearly appear or for which a Commission time stamp or PSC reference number already exists.
- w. Paginate any testimony and mark any exhibit filed under request for confidential handling treatment with the pre-assigned number succeeded by the letter “c”.
- x. Paginate any testimony and mark any exhibit filed publicly for which another version is filed under request for confidential handling treatment with the pre-assigned number succeeded by the letter “p”.
- y. Paginate any replacement page and mark any replacement exhibit with the same page or exhibit number as the original version, except the letter “r” shall immediately succeed the number.
- z. Refer to any existing testimony or marked exhibit by using the pre-assigned page or exhibit number.
- aa. Except for the existing testimony or marked exhibit in this docket, include in any reference to a document already posted on ERF, the ERF identifier “PSC REF #:\_\_\_\_\_”.

- bb. The scope of pre-filed testimony is narrowed with each round of testimony such that it may address only the testimony filed in the previous round.
- cc. No evidence shall enter the record solely by citation to an Internet hyperlink.
- dd. Briefs shall contain double-spaced type and one-inch margins. A party may file an initial brief of up to 40 pages and a reply brief of up to 15 pages. A non-party brief shall not exceed 15 pages. Cite to the record any evidence referenced therein. Cite to no document or assertion of fact outside the record except for published court decisions and Commission orders.

### **At Hearing**

- ee. The order of appearances and cross-examination by parties shall follow the order of filers as provided in the table above. Commission staff shall follow all parties. Each filer may arrange its presentation of witnesses, but numerical order by pre-filed page number is preferred.
- ff. The Commission shall accept individual witness appearances by telephone as provided by Wis. Stat. § 807.13. The Commission requires neither prior notice of such request nor prior notice of any consent of the other filers to such request. Taking testimony by telephone shall take priority to monitoring the hearing by telephone.
- gg. Prior to cross-examination, any witness may offer brief oral testimony that responds only to the last testimonial offer of another witness.
- hh. Upon an order to exclude proffered evidence the sponsor of such evidence may make an offer of proof separate from the record and entered into the record only if so ordered.
- ii. The Applicant shall make an adequate number of personnel with knowledge of the issues in this docket available at each public hearing session to answer questions from members of the public.

### **Post-Hearing**

- jj. File and serve:
  - i. Any document used for cross-examination or examination of an adverse witness not filed prior to the hearing but received into the record by 12:00 noon 3 days after the last day of the party hearing session.
  - ii. Documentary evidence not pre-filed but identified at the hearing for which offer into the record is delayed until after the hearing (delayed exhibit) by 12:00 noon on the filing date set at the hearing.
  - iii. Every objection to or request to offer rebuttal or countervailing evidence for:

1. Any evidence offered by a member of the public by 12:00 noon 3 days after service of the transcript of the public hearing session. File and serve any response by 12:00 noon 5 days after the filing of the objection and any reply by 12:00 noon 3 days after filing of the response.
2. Any delayed exhibit by 12:00 noon 3 days after the date of filing. File and serve any response by 12:00 noon 5 days after the filing of the objection and any reply by 12:00 noon 3 days after filing of the response.
- iv. Every transcript correction by 12:00 noon 5 days after issuance from the Office of Administrative Law Judge of the public transcript by email and any confidential transcript by mail.
- v. The affidavit of any witness attesting to the truthfulness and accuracy of that witness's pre-filed testimony and exhibits offered into the record in the absence of a live oath or affirmation by 12:00 noon 3 days after the party hearing session.
- vi. Any request to present additional evidence by 12:00 noon 3 days after the filing of the request and any reply by 12:00 noon 2 days after the filing of the response.
- vii. Any response to a request for rehearing or reopening by 12:00 noon 5 days after the filing of the request. *See* Wis. Stat. §§ 196.39(2) and 227.49(5). The Commission shall accept no reply from the requester.
- kk. The record closes one day after the last deadline for an evidentiary filing set by this order.
- ll. If before the Commission takes action to review the record, a request is filed and served for leave to present additional evidence, the Office of Administrative Law Judge may grant the request upon such terms it may deem proper if the additional evidence is material and good cause prevented its presentation at hearing. The Commission may not stay its review of the record pending the processing of the request.

Wednesday, March 17, 2010



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Michael E. Newmark  
Administrative Law Judge

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